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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.562 OF 2007

Banumathi Subramanian Iyer ...Applicant
V/s.
State of Maharashtra & Anr. ...Respondents

Mr.Nikhil Mengde h/f. Mr.R. Sathyanarayanan, Advocate, for the Applicant.

Mr.Y.S. Shinde, APP, for the State.

Ms.Bharati Lele i/b. M/s.Bhave & Co. for Respondent No.2.

CORAM : A.P. DESHPANDE, J.

DATED : 21ST NOVEMBER, 2007.

P.C.:

1. Criminal proceedings bearing No.17/PW/2004 are pending on the files of Metropolitan Magistrate, 34th Court, Vikhroli, Bombay, against the applicant for offences allegedly committed under Sections 465, 467, 468, 471, 420 read with Section 34 of the I.P.C. For quashing of the said proceedings, the present application has been filed under Section 482 of the Cr.P.C.

2. The parties have amicably resolved the dispute by entering into a settlement out of Court which is reflected in a documents filed at Exhibit - B and titled as "Memorandum of Understanding". The dispute is predominantly of the civil nature arising out of an

agreement of sale of a flat executed by the applicant in favour of respondent No.2. As the applicant could not transfer the flat in the name of respondent No.2, respondent No.2 made a complaint to Nehru Nagar Police Station which came to be registered as F.I.R. No.177/2003 and presently vide case No.17/PW/04. The Nehru Nagar Police Station has filed charge-sheet in the Court of the Metropolitan Magistrate, 34th Court at Vikhroli. The said case is pending.

3. It is this case, the proceedings of which are sought to be quashed. Perusal of the memorandum of understanding reveals that the present applicant has returned the entire amount of money received from respondent No.2 together with interest and expenses. The dispute is resolved and the said fact is undisputed. Both the learned Advocates representing the present applicant and respondent No.2 urged this Court to quash the proceedings. Though offences under some of the Sections referred to hereinabove are non-compoundable, the said fact does not come in way of this Court for quashing of the proceedings in exercise of powers under Section 482. The learned Advocates, to substantiate the said proposition, have placed reliance on the judgment of the Supreme Court reported in 2003 SCC (Criminal) 848 and to be precise

paragraph 8 thereof.

4. I am satisfied that end of the justice would be met by quashing the proceedings as prayed for in this application. In the result, the application is allowed. Rule made absolute in terms of prayer clause (a).

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